

COMMONWEALTH OF PENNSYLVANIA )

)

VS.

)

OTN: G831415-4

)

G831417-6

JERMAINE CLARK, TERRY SUGGS, )

)

Defendants. )

## H E A R I N G

held at Turtle Creek, PA, before Magisterial

District Judge Thomas Miller, on March 5, 2019 before

Phyllis M. Machel, a Professional Court Reporter, in and for

the said County of Allegheny.

A P P E A R A N C E S

FOR THE COMMONWEALTH:

Ilan Zur, Esq.

Assistant District Attorney

303 Courthouse

Pittsburgh, PA 15219

FOR THE DEFENDANTS:

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Suite 1203

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
DETECTIVE BONACCI	4	13	36	

1 THE COURT: This is the Commonwealth vs.  
2 Jermaine Clark and the Commonwealth vs. Terry  
3 Suggs.

4 Mr. Suggs and Mr. Clark are present and are  
5 represented by counsels.

6 Waive the reading?

7 MR. GAMBURG: Yes, Your Honor.

8 MR. HABER: On behalf of Mr. Clark, waive  
9 the reading and plead not guilty.  
10 Ready to proceed.

11 (Whereupon, the witnesses were first duly sworn.)

12 DIRECT EXAMINATION

13 BY MR. ZUR:

14 Q Sir, please state your full name and spell your last  
15 name.

16 A Ray Bonacci. B-o-n-a-c-c-i.

17 MR. HABER: Excuse me, Ilan.

18 Judge, I would move for sequestration.

19 MR. GAMBURG: I would join.

20 MR. ZUR: I have no problem, I'd just ask  
21 that the affiant be allowed to remain.

22 THE COURT: And that would be detective Kucic.

23 MR. ZUR: Kucic, correct.

24 (Whereupon, the witnesses were sequestered.)

25 BY MR. ZUR:



1 Q Did we get to spelling your last name?

2 A Yes.

3 Q Sir, how are you employed?

4 A I'm a detective supervisor with the Allegheny County  
5 District Attorney's Office.

6 Q What are your responsibilities?

7 A I supervise the Drug Task Force.

8 Q How long have you been a police officer?

9 A Twenty-five years.

10 Q What is the type of work that you mainly focus on as a  
11 police officer?

12 A The last 25 years, for 20 of the years I've been  
13 exclusively drug law enforcement.

14 Q I'd like to now draw your attention to February 25, 2019,  
15 did you meet with a confidential informant?

16 A I did.

17 Q What was the purpose of meeting with the confidential  
18 informant?

19 A We were to place a call to the defendant to place an  
20 order to receive a delivery of cocaine.

21 Q Was there a specific number, amount of cocaine that you  
22 were attempting to receive delivery for?

23 A Yes.

24 Q How much?

25 A Five kilograms.

1 Q Who was the individual that the CI was contacting for  
2 this delivery of cocaine?

3 A Jermaine Clark.

4 Q And do you see Mr. Clark in court here today?

5 A I do.

6 Q Could you please identify him and describe --

7 A Sitting behind Mr. Haber.

8 THE COURT: The record will reflect that he's  
9 identified the defendant.

10 MR. ZUR: Thank you.

11 BY MR. ZUR:

12 Q What was the means of communication with the defendant  
13 Clark?

14 A It was cell phone.

15 Q Can you please place that number on the record?

16 A I don't think that I have the record.

17 Q Do you have the complaint?

18 A Yes. It's area code 267-752-0440.

19 Q Did the CI on this date place a call to that phone  
20 number?

21 A Correct.

22 Q Were you present for that?

23 A I was.

24 Q Was this a recorded phone call?

25 A Yes, it was.

1 Q Did you hear both ends of the phone call?

2 A Yes, I did.

3 Q Approximately what time, if you recall, was this call

4 placed?

5 A Noon time, 11:30, 12 o'clock.

6 Q What was discussed over this phone call?

7 A Where the meet was to occur, when the meet was to occur.

8 Q Where was the meet to occur?

9 A On Grant Street in the Borough of North Braddock.

10 Q And approximately what time was this supposed to happen?

11 A Three, 4 o'clockish.

12 Q In the afternoon?

13 A Yes.

14 Q After this call was placed, what occurred next, as far

15 as this investigation?

16 A Surveillance officers were detailed to that area and

17 then we received another incoming call from Mr. Clark

18 stating that he was 20 minutes away.

19 Q What time was that, approximately?

20 A Approximately 3:30, 3 o'clock.

21 Q What happened next?

22 A Surveillance officers, arrest team was assembled and

23 placed in the area at Grant Street in North Braddock.

24 Surveillance officers indicated that the defendant was

25 driving a Traverse, a Chevy Traverse. We confirmed

1 the plate that he has been driving and another person  
2 entered the passenger side of the vehicle with him.

3 Q This other person that entered the passenger side of  
4 the vehicle with Mr. Clark, where did he come from?

5 A He came from another vehicle and then we later learned  
6 that it was a Subaru.

7 Q The individual that exited the Subaru and entered the  
8 Traverse, do you see him in court today?

9 A I do.

10 Q Can you please identify him?

11 A Sitting at the end of the table beside his counsel.

12 Q Who is that?

13 A Terry Suggs.

14 MR. ZUR: May the record reflect  
15 identification.

16 THE COURT: The record reflects he's  
17 identified the defendant, Suggs.

18 BY MR. ZUR:

19 Q Just so that I have a better understanding of what is  
20 going on, where are these vehicles on the street in  
21 relation to, is it near a residence, or where is this?

22 A It's a neighborhood, it's a residential neighborhood.

23 Q The individual that you identified as Mr. Suggs, he  
24 exited what part of the car, passenger, driver?

25 A Driver's side.

1 Q Then entered the Traverse that was driven by Mr. Clark?

2 A Correct.

3 Q And where did Mr. Suggs go in the Traverse?

4 A Passenger side.

5 Q Both of these vehicles, did you ultimately run the  
6 registration?

7 A Yes.

8 Q Where are they registered?

9 A The city of Philadelphia.

10 Q Where are Mr. Suggs and Mr. Clark, where are they from?

11 A The City of Philadelphia.

12 Q Were you aware of, based on the dealings with the CI  
13 that these individuals were coming from Philadelphia?

14 A Yes.

15 Q After this was observed, Mr. Suggs entering the Traverse  
16 with Mr. Clark, what happened?

17 A Surveillance officers indicated that they were present in  
18 the vehicle. Once the arrest team was in place, we moved  
19 in, boxed the car in, boxed the vehicle in and took both  
20 of them into custody.

21 Q Were any cell phones recovered from Mr. Clark and  
22 Mr. Suggs?

23 A Yes.

24 Q How many cell phones each?

25 A Four from Mr. Clark and I don't know how many from

1 Suggs.

2 Q After Mr. Clark and Mr. Suggs were taken into custody  
3 and you got the cell phones, what was done with the  
4 vehicles that were involved, the Subaru and the  
5 Traverse?

6 A They were impounded and taken back to the Swissvale  
7 Police Department. Once secured at the Swissvale Police  
8 Department, search warrants were obtained.

9 Q Was a search done of the Traverse?

10 A Yes.

11 Q Was anything found in the Traverse?

12 A Yes.

13 Q What was found in the Traverse?

14 A Five kilograms of cocaine.

15 Q Where was that found?

16 A In a hydraulic trap in the rear.

17 Q How is it that you knew -- did you do any testing on  
18 the substance to confirm that it was in fact cocaine?

19 A Right.

20 Q What testing did you do?

21 A I had a NarcoPouch, 904 is a field test.

22 Q What do you actually do?

23 A We put a small amount of the substance into a pouch,  
24 bust two tubes to see if there's a presence of cocaine.

25 Q So, one of these packages was opened then?

1 A No. We poked it.

2 Q Poked it.

3 And you got some of the substance out of it?

4 A Yes.

5 Q And it tested positive for cocaine?

6 A Correct.

7 Q Is there anything else, based on your experience that

8 led you to believe that this substance was in fact

9 cocaine?

10 A The odor.

11 Q The odor.

12 A Strong odor.

13 Q So, you've smelled that odor before in cocaine?

14 A Yes.

15 Q As part of our 25 years as a police officer you have

16 handled and seized cocaine before?

17 A Yes.

18 Q You said five kilograms, and that's 5000 grams is taken

19 out of the Traverse from a trap in the back?

20 A Right.

21 Q What about the Subaru, was that also searched, the car

22 that Mr. Suggs exited?

23 A Yes.

24 Q What was found in the Subaru?

25 A Eighteen (18) kilograms.

1 Q Where were the 18 kilograms in the Subaru?

2 A They were also in a hydraulic trap in the rear of the  
3 vehicle. This was after a dog sniff also.

4 Q And the dog sniff alerted to the presence of narcotics?

5 A Right.

6 Q The dog sniff, is it specific to the type of substance,  
7 or would it alert it to any sort of narcotic?

8 A I don't know.

9 Q At some point did you, or did somebody place a phone  
10 call to 267-752-0440, the number that the CI used to  
11 contact Mr. Clark?

12 A Yes.

13 Q Did a phone ring?

14 A Yes.

15 Q The phone that rang, where did that phone come from?

16 A It was one of Mr. Clark's phones.

17 Q Do you know what the purchase price was that the CI was  
18 supposed to pay for the kilograms per kilo?

19 A Thirty-two thousand (32,000) per kilogram.

20 Q Based on your experience as a narcotics detective, what  
21 is the street value of 23 kilograms that were seized of  
22 cocaine?

23 A Before it's cut it's worth at a \$100 a gram 2.3 million  
24 dollars.

25 MR. ZUR: Offer for Cross.



1 THE COURT: Cross.

2 CROSS EXAMINATION

3 BY MR. HABER:

4 Q Detective Bonacci, you were asked on Direct about  
5 meeting with a confidential informant. What time did  
6 you first meet with the informant on this date?

7 A My first actual meeting was about 11:30.

8 Q So, when you were asked about a call being placed and  
9 you said that it was around 11:30 a.m. or 12 noon, that's  
10 when you first met with the CI?

11 A Right.

12 Q Is this the first time that you met with the CI ever?

13 MR. ZUR: Objection, relevance.

14 THE COURT: Sustained. That doesn't have  
15 anything to do with today.

16 BY MR. HABER:

17 Q Did you contact the CI to come meet with you, or did  
18 the CI contact you on the date that we're talking about?

19 A There was constant communication between me and the  
20 confidential informant throughout the morning, so who  
21 placed the first phone call, I don't know.

22 Q You testified that you had a cell phone number to call  
23 and that there was a recorded call, is that correct?

24 A Right.

25 Q When did you acquire or come into possession of this

1 cell phone number?

2 MR. ZUR: Again, I'll object to relevance as  
3 far as predating the 25th, which is the date of the  
4 seizure.

5 MR. HABER: I'll just ask it a different way.

6 BY MR. HABER:

7 Q Let me ask you this. Did you provide the phone number  
8 to call to the informant?

9 A No.

10 Q The informant provided it to you?

11 A Correct.

12 Q When you say the person that the informant was calling  
13 was Jermaine Clark, you testified to that, correct?

14 A I did.

15 Q Had you ever heard Mr. Clark's voice before so that you  
16 can make that statement here today that it was Mr. Clark  
17 on the phone?

18 A I have.

19 Q You've heard his voice before?

20 A Yes.

21 Q Before the date of February 25th?

22 A Yes.

23 Q And you were asked about did you hear both ends of the  
24 call, do you remember being asked that?

25 A I do.

1 Q I assume that you heard the person speaking from the  
2 other phone?

3 A Correct.

4 Q And you're saying that's a voice that you've heard  
5 before?

6 A I did, yes.

7 Q Did the person on the other end of the phone identify  
8 themselves by name?

9 A No.

10 Q How about a nickname? Or, did the informant -- I should  
11 ask you it this way. Did the informant identify during  
12 the phone conversation, did he refer to that person by  
13 name?

14 A I don't think so. Not on that date.

15 Q How long was that phone call?

16 A Short. Maybe a minute.

17 Q Maybe a minute?

18 A Yes.

19 Q During that phone call, let me start, I probably know  
20 the answer to this, but let me start with the word  
21 cocaine, was that word used?

22 A No.

23 Q Was any word used in reference to cocaine that in your  
24 experience as a 20 year veteran narcotics detective was  
25 a synonym or a way of referring to cocaine?

1 A No.

2 Q Was there any word used to describe that there was a  
3 meeting for a drug transaction?

4 A Yes.

5 Q What was that phrase?

6 A So, it's common for drug traffickers not to say these  
7 words, because they always assume that there's wire  
8 taping in place, so they intentionally avoid using the  
9 words cocaine and obvious words, so, they'll just say,  
10 do you have that for me, do you have them five for me,  
11 things like that, where they have some kind of  
12 plausible denial, that it could be five hamburgers.

13 Q I understand that, and I understand that can be common,  
14 but in this specific one minute or so call was any  
15 phraseology used that you can recall that would indicate  
16 that it was about drugs?

17 A Yes.

18 Q Do you remember what it was?

19 A It was just that, it was, will you have that? Or, will  
20 they be ready? I'm not sure exactly what the terms  
21 were.

22 Q Was there, and I'm not asking you about prior  
23 transactions or anything like that, but was there any  
24 prior call that you heard, or were aware of, or that  
25 the CI related to you in reference to the drug deal that

1           you say was going to take place on the 25th of February?

2       A     Yes.

3       Q     How many days back, if it was days or hours, how many  
4           days back does it go?

5            Again, only in reference to the 5 kilogram deal  
6           that we're talking about?

7       A     Five, six days.

8       Q     You're saying you believe, quote, unquote, in the works  
9           for five or six days?

10      A     Yes.

11      Q     Would it be from those five or six days that you can say  
12           that you knew the voice of Mr. Clark?

13      A     Correct.

14      Q     Not prior to that?

15      A     I think -- I don't remember.

16      Q     You testified about a meeting place being on Grant Street  
17           in North Braddock, do you remember that?

18      A     Yes.

19      Q     You knew that from what, from the informant telling you  
20           this, or from listening to the phone call?

21      A     Both.

22      Q     Did the informant tell you that would be the meeting  
23           place prior to the phone call?

24      A     No.

25      Q     Did the informant only tell you that, or you heard that

- 1           only because of the one minute phone call?
- 2       A     Practice.
- 3       Q     Who picked the meeting place?
- 4       A     I don't remember.
- 5       Q     Did the person on the end of the phone talking to the
- 6           informant indicate where they were coming from?
- 7       A     Can you be a little bit more specific?
- 8       Q     Did they indicate where they were coming from, where
- 9           they were at, at that moment, and where, therefore, they
- 10          were going to come from to Braddock?
- 11      A     Yes. So, Mr. Clark indicated that he was in the City,
- 12          and assuming at the hotel he was staying that.
- 13      Q     The City, you believe that --
- 14      A     Pittsburgh.
- 15      Q     -- that was reference to the City of Pittsburgh?
- 16      A     Right. Yes.
- 17      Q     You talked about surveillance officers, do you remember
- 18          testifying about that?
- 19      A     Yes.
- 20      Q     My question to you is, when you say surveillance
- 21          officers were watching, and there was no objection
- 22          because obviously you didn't see this, you're getting
- 23          this from them, correct?
- 24      A     Correct.
- 25      Q     The surveillance officers, where were they? Were they

1           surveying Mr. Clark when he was quote, unquote, in the  
2           City?

3       A     What day of the week are you speaking about?

4       Q     This day?

5       A     On that day there was surveillance at the hotel in the  
6           morning, there was surveillance in Westmoreland County,  
7           there was surveillance all over the place.

8       Q     Now, in terms of you personally, where were you, were  
9           you with the informant?

10      A     At a certain point.

11      Q     Were you doing any surveillance?

12      A     Yes.

13      Q     Did you see Mr. Clark any time that day?

14      A     I did not personally see him, no.

15      Q     The time period from 11:30 a.m. or noon when the call  
16           was place and recorded until the time that Mr. Clark is  
17           taken into custody, okay --

18      A     Yes.

19      Q     -- do you know where the informant was?

20                       MR. ZUR: Objection, relevance.

21                       THE COURT: Sustained.

22      BY MR. HABER:

23      Q     Well, let me ask you about this Subaru. The informant  
24           had access to the Subaru during this time, didn't that  
25           person have access to the Subaru?

1 A Did the informant have access to the Subaru?

2 Q Yes. The Subaru that is mentioned that you testified  
3 about that had 18 kilos and that the complaint says had  
4 money in it, correct?

5 A Correct.

6 Q Was there money in the Subaru?

7 A Yes.

8 Q Where was that located?

9 A I think it was behind the driver's side seat, that's  
10 where it was located.

11 Q How much, do you know?

12 A Eight, nine thousand.

13 Q Do you know where that Subaru was between noon and  
14 roughly 4 p.m. when the arrest went down?

15 A No.

16 Q Did any of your surveillance indicate to you that they  
17 ever saw this Subaru prior to it being on the scene  
18 where people were arrested?

19 A On that day?

20 Q Yes.

21 A No.

22 Q You testified surveillance officers saw a second person  
23 gets out of the Subaru and enter the Traverse, correct?

24 A I testified that surveillance officers saw a person get  
25 out of a vehicle that was later identified as a Subaru



1           after they were in custody.

2       Q     No surveillance officers ever saw the Subaru pull up to

3           the scene, correct?

4       A     I don't think so, no.

5       Q     You agree with me? To the best of your knowledge --

6       A     Not necessarily.

7       Q     To the best of your knowledge?

8       A     To the best of my knowledge, I don't know.

9       Q     Would it also be accurate that surveillance officers did

10           not see the Traverse pull up?

11      A     No, surveillance officers did see the Traverse pull up.

12      Q     They did see the Traverse pull up?

13      A     I believe that they said it was a Traverse. I could be

14           wrong, the surveillance officers might have said, a

15           Traverse is here already.

16      Q     So, they might have said that, hey, we just arrived and

17           the Traverse is already here?

18      A     Correct. That's what happened, yes.

19      Q     Did the surveillance officers see anybody that was in

20           the Traverse meet up with anybody?

21      A     Just whoever got in the passenger side.

22      Q     But not the informant?

23      A     No.

24      Q     Obviously I'm not asking for the identity of anybody,

25           but was the informant present at the scene?

1 MR. ZUR: Objection, relevance.

2 THE COURT: Sustained.

3 BY MR. HABER:

4 Q When the informant told you that the meet place was  
5 Grant Street in North Braddock -- let me ask you this  
6 question, not being that familiar with the area, is  
7 Grant Street the main drag?

8 A No.

9 Q How long is Grant Street? How many blocks long is that?

10 A I'm guessing ten.

11 Q At what point on that 10 block area was it your  
12 understanding the meeting place would be, or did you not  
13 know?

14 A I didn't know.

15 Q Did anybody know?

16 A We were told Grant Street.

17 Q So, did you have all 10 blocks covered?

18 A No, it's a narrow street, it was towards the end of it.

19 Q Did you know that it was going to be towards the end  
20 of it?

21 A I didn't know that, no.

22 Q Did anybody know it, as far as you know?

23 A As far as I know, no.

24 Q I know that you have all kinds of surveillance going  
25 on, did you have a photograph of somebody that you were

1 looking for?

2 A Yes.

3 Q Specifically my client, Mr. Clark?

4 A Yes.

5 Q Did the informant tell you that a particular vehicle

6 that he or she expected to be part of this?

7 A Yes.

8 Q Which vehicle?

9 A A Traverse.

10 Q Is that the only vehicle that they mentioned?

11 A I'm not sure that I understand your question.

12 Q Is the Traverse the only vehicle that the informant

13 mentioned that would be involved in this meeting?

14 A That was our understanding, yes, that we were just

15 looking for the Traverse.

16 Q When the incoming call came indicating the caller would

17 be about 20 minutes away, was that call to the

18 informant's phone?

19 A I believe so, yes.

20 Q Was that recorded?

21 A It was.

22 Q Were there any other calls that you know of that were

23 between who you believe to be Mr. Clark and the

24 informant on the date in question here, the 25th of

25 February, other than the two calls that you testified

1 about?

2 A Were there any other calls?

3 Q Between who you believe to be Mr. Clark and the  
4 informant?

5 A No. Just those ones.

6 Q Just those two?

7 A That's all that I'm aware of.

8 Q if you know, do you know how long it was that the driver  
9 of the Traverse was present before the other person gets  
10 into the Traverse?

11 A I don't know.

12 Q Were you present when the quote, unquote, takedown  
13 occurred?

14 A Yes.

15 Q You were?

16 A Yes.

17 Q At what point did you arrive on-scene?

18 A First.

19 Q You were first?

20 A Yes.

21 Q First meaning you were a surveillance officer?

22 A No. I was part of the arrest team, I was first.

23 Q You were first on the arrest team?

24 A Yes.

25 Q So, you were part of the take down team?

- 1 A Yes.
- 2 Q Describe exactly what you did when you got on-scene?
- 3 A Pulled my vehicle to the rear of the Traverse, went up
- 4 to the driver's side window, ordered Mr. Clark out of
- 5 the vehicle, we set his phones on the street, we placed
- 6 him in handcuffs.
- 7 Q What was Mr. Clark doing when you got there?
- 8 A Sitting on the street.
- 9 Q In his car?
- 10 A In the vehicle.
- 11 Q Was he talking on the phone?
- 12 A I'm not sure.
- 13 Q Were you similar as to how you're dressed today?
- 14 A Yes.
- 15 Q So plain clothes?
- 16 A Yes.
- 17 Q I assume you identified yourself as a police officer?
- 18 A Yes. And I had a badge around my neck.
- 19 Q To make it clear who you were?
- 20 A Sure.
- 21 Q In other words, law enforcement, right?
- 22 A Yes.
- 23 Q Obviously, there were several others along with you
- 24 that were doing this?
- 25 A Yes.

- 1 Q Was there any marked car?
- 2 A Yes.
- 3 Q How many officers total were part of the takedown team?
- 4 A Ten, roughly.
- 5 Q You described your role as you approached from the rear
- 6 of the Traverse, correct?
- 7 A Correct.
- 8 Q I assume some officers approached from the front?
- 9 A Yes.
- 10 Q And is it fair to say that given the nature of the
- 11 investigation that everyone had their firearms drawn?
- 12 A Correct.
- 13 Q And drawn in the direction of Mr. Clark, correct?
- 14 A Mine was, I don't know where everybody else's was.
- 15 Q What did you say?
- 16 A Initially?
- 17 Q Yes.
- 18 A I just wanted to make sure that I could see his hands,
- 19 to put his hands up.
- 20 Q Then what did you say?
- 21 A I directed it to the passenger the same thing.
- 22 Q You already said, you ordered them out of the vehicle?
- 23 A I did.
- 24 Q Did they come out with hands up?
- 25 A Yes.

1 Q Did you tell them then to put their hands behind their  
2 back to be handcuffed?  
3 A I did, yes.  
4 Q And they complied?  
5 A Yes.  
6 Q They were then taken into custody?  
7 A Correct.  
8 Q Where were they taken at that point?  
9 A From there?  
10 Q Yes.  
11 A They were taken to the Swissvale Police Department.  
12 Q Now the vehicle that Mr. Clark was sitting in the  
13 driver's seat, the Traverse, when he was taken to  
14 Swissvale, did the Traverse remain on Grant Street in  
15 North Braddock?  
16 A Do you mean after we left?  
17 Q Yes.  
18 A For a short time until the tow truck arrived?  
19 A You called for a tow?  
20 A Somebody did.  
21 Q Had you already discovered what was inside of the  
22 Traverse?  
23 A No.  
24 Q You didn't see any drugs inside of the Traverse on Grant  
25 Street in North Braddock?

1 A I did not, no.

2 Q Let me just ask you this, did you search the car at that  
3 point?

4 A No.

5 Q So, first hand knowledge, you had no idea if anything was  
6 in the Traverse, correct?

7 A No, not for sure.

8 Q When I say anything, let me be more clear.

9 You obviously didn't see any -- I think you already  
10 said, you saw no drugs, correct?

11 A Right.

12 Q What about anything else? Any weapons, any money that  
13 was out in the open that you could see inside of the  
14 Traverse?

15 A No, sir.

16 Q Any packaging material?

17 A No, sir.

18 Q With respect to Mr. Clark, you never personally saw  
19 him inside of the Subaru, correct?

20 A No.

21 Q Same question with respect to surveillance officers  
22 who apparently you did speak with, nobody from the  
23 surveillance team ever saw Mr. Clark inside of that  
24 Subaru, correct?

25 A Correct.



1 Q The interaction that you had with Mr. Clark on Grant  
2 Street, were you or do you know if anyone else was  
3 wearing any recording device such that the incident was  
4 recorded either video or audio?

5 A No, there were no recordings that I know of.

6 Q I know that the State Police were involved in this,  
7 correct?

8 A They were.

9 Q You said that there was a uniform car that did pull up,  
10 at least one?

11 A I didn't say that, but there was one there.

12 Q I thought that you said that, but I stand corrected if  
13 you didn't.

14 Was there a dash cam or a body cam either connected  
15 to any car or worn by any officer?

16 A I don't know. I don't know what the State Police wear,  
17 I don't know what Swissvale Police wear, I'm not sure.

18 Q When you testified that both cars were from Philadelphia  
19 and both defendants were from Philadelphia, both people  
20 that were arrested there were from Philadelphia,  
21 obviously the cars, I assume that you ran the plates?

22 A I did.

23 Q But your knowledge about both persons being from  
24 Philly came from where?

25 A Mr. Clark's driver's license.

- 1 Q Is that when you first became aware that he might be  
2 from Philadelphia?
- 3 A You mean when I saw his driver's license?
- 4 Q Yes.
- 5 A No.
- 6 Q You testified on Direct that the informant told you  
7 that he was coming from Philadelphia, was that stated  
8 to you the date of February 25th?
- 9 A No.
- 10 Q Some time prior?
- 11 A Yes. These arrangements were made about a week, not  
12 quite a week, five, six days before.
- 13 Q Was there any surveillance of anybody coming from  
14 Philadelphia to Pittsburgh?
- 15 A Surveillance, well, we had obtained a Court Order to  
16 monitor the whereabouts of the cell phone that we  
17 mentioned here, so we knew where the cell phone was  
18 that Mr. Clark had.
- 19 Q So, almost like a GPS tracking?
- 20 A Correct.
- 21 Q But in terms of actual physical surveillance, eyes of  
22 law enforcement watching somebody drive from Pittsburgh  
23 to Philly or fly, that wasn't done, correct?
- 24 A No.
- 25 Q Is that right?

1 A That's correct.

2 Q When you took Mr. Clark into custody, and took him to  
3 the police station, what was he under arrest for?

4 A At that point?

5 Q Yes.

6 A At that point he was under arrest for we believed that  
7 he had cocaine in the car, a significant amount.

8 Q And that belief was based on things that the informant  
9 may have told you?

10 A Reliability of the informant.

11 Q But we can agree that you did not know nor had you seen  
12 whether cocaine was in the car until you took it back  
13 to the police station, correct?

14 MR. ZUR: I'm going to object to this line of  
15 questioning as far as I believe it goes more  
16 towards suppression, those pieces to the arrest.  
17 I don't think that's relevant for today, Your  
18 Honor.

19 THE COURT: Sustained.

20 BY MR. HABER:

21 Q I think that you testified that you seized all of the  
22 cell phones from the vehicle and/or the persons, the  
23 two defendants here, is that right?

24 A Yes.

25 Q How many phones were taken from Mr. Clark, directly from

1 his person?

2 A I think that there were four.

3 Q All four were on his person?

4 A No. When he got out of the vehicle we put them on the  
5 street, so there were two or three on the street and  
6 maybe another one in the vehicle.

7 Q You took those phones?

8 A I did not, no.

9 Q Somebody did?

10 A Yes.

11 Q Some law enforcement?

12 A Uh-hmm.

13 Q Is that a yes?

14 A Yes.

15 Q You took them, I assume, from the scene on Grant Street  
16 in North Braddock?

17 A Yes.

18 Q What was done with them at that time?

19 A They were preserved and search warrants were obtained  
20 for their content.

21 Q We can agree that you did not have a search warrant or  
22 any warrant to search or seize either of the vehicles  
23 prior to 4 p.m. on February 25th, correct?

24 MR. ZUR: Objection as to the relevance for  
25 today's purposes.

1 MR. HABER: I think that it's relevant to --

2 MR. ZUR: It has nothing to do with the prima  
3 facie case, so, therefore, I would argue that it's  
4 not relevant.

5 MR. HABER: There's a lot of things that were  
6 testified to on Direct that may not have to do  
7 with prima facie, but it's just part of what  
8 happened. He testified that he got a warrant  
9 when he got back to the station, I just wanted  
10 to know --

11 THE COURT: We'll give you a little  
12 leeway, Sir.

13 MR. HABER: Okay. I understand. And I'm  
14 almost done.

15 BY MR. HABER:

16 Q So, the first search warrant for either vehicle was  
17 obtained after the cars were towed back to Swissvale,  
18 is that correct?

19 A Correct.

20 Q You testified to smelling the cocaine. I just want  
21 to make sure that I understand that. That was at the  
22 point when you were field testing it, correct?

23 A Correct, yes.

24 Q You already opened one of the kilo packages, and you  
25 were taking it out to test it, that's when you smelled

1           it, correct?

2       A     That is, yes.

3       Q     You didn't smell it prior to that?

4       A     No.

5       Q     Is that a, no?

6       A     That's a, no.

7       Q     Just a few more questions.

8                   When you said something about after a canine sniff,  
9           do you remember saying that on Direct Examination?

10      A     I did.

11      Q     When did this canine sniff occur?

12      A     I believe it occurred on Grant Street, there were three  
13           canines there.

14      Q     So, there were three canines on Grant Street, that you  
15           recall?

16      A     I do, yes.

17      Q     Do you recall if that's where the canine sniff occurred  
18           or not?

19      A     I don't.

20      Q     You don't recall?

21      A     I don't know if they actually sniffed the vehicles  
22           while they were on Grant Street.

23      Q     You're not a handler?

24      A     No.

25      Q     Who was the handler? And that's the only question that

1 I have and then I'll move on.

2 A There were three, two Swissvale canines were present  
3 and a North Versailles.

4 Q When Mr. Zur asked you about the purchase price, you  
5 said 32,000 per kilo?

6 A Correct.

7 Q Is that right?

8 A Yes.

9 Q Where did you get that information from?

10 A The informant.

11 Q Was that during the phone call that was recorded?

12 A No.

13 Q The informant told you this when?

14 A Prior to that.

15 Q Did you give the informant marked money?

16 A No.

17 Q The Subaru and the Traverse were registered to owners  
18 that did not come back to Jermaine Clark, is that  
19 correct?

20 A Correct.

21 Q Did you make any attempt to interview or contact the  
22 registered owner of either vehicle?

23 A They're temp tags, they're registered to it looks like  
24 a Dealership, an auto dealer.

25 Q Was the auto dealer contacted?

1 A No.

2 Q The last question along those lines. The Dealer is  
3 located --

4 A In Philadelphia.

5 MR. HABER: If I may have just one second,  
6 Your Honor, I think that I'm done.

7 THE COURT: No problem.

8 MR. HABER: Judge, thank you very much for  
9 the Court's patience.

10 I have no further questions at this time.

11 THE COURT: Do you have any questions?

12 MR. ZUR: No.

13 THE COURT: Cross.

14 CROSS EXAMINATION

15 BY MR. GAMBURG:

16 Q Good morning, detective, how are you?

17 A Good. How are you?

18 Q Good. Thanks.

19 You're not the affiant on the complaint, correct?

20 A Correct.

21 Q Did you review that prior to testifying today?

22 A No, I didn't.

23 Q You have a CI and you have a telephone number, correct?

24 A Correct.

25 Q That telephone number already testified to, 267-752-0440,



1 correct?

2 A I believe that's it.

3 Q You have a Court Order for the GPS tracking of that  
4 phone, correct?

5 A Correct.

6 Q You have a phone call made to that phone on February 25th  
7 at about you said between 11:30 and 12, correct?

8 A Correct.

9 Q There is a conversation that you hear, correct?

10 A Yes.

11 Q With one individual, correct?

12 A Yes.

13 Q You identified that individual at this hearing as  
14 Mr. Clark, correct?

15 A Correct.

16 Q Based on that conversation there is a meet that is  
17 arranged between 3 and 4 p.m., correct?

18 A Correct.

19 Q The meeting location, 1400 block of Grant Street in  
20 North Braddock was decided during that 11:30, 12 o'clock  
21 phone call?

22 A I don't know about the 1400 block, I know Grant Street  
23 was.

24 Q That was decided between 11:30 and 12, correct?

25 A Yes.

1 Q This is a 5 kilogram transaction that is supposed to  
2 occur, a big transaction, correct?

3 A Correct.

4 Q You have at least yourself, four other detectives and a  
5 state trooper, correct, that are part of your detail,  
6 would you agree with that?

7 A At least.

8 Q At least?

9 A Yes.

10 Q What time do you set up surveillance for this meet that  
11 is supposed to occur between 3 and 4 p.m. on Grant Street  
12 in North Braddock?

13 A Surveillance officers were up there prior to me, so I'm  
14 not exactly sure what time they arrived there.

15 Q Certainly sometime in advance of the proposed meet?

16 A Correct.

17 Q At some point in time you're in constant radio contact  
18 with the rest of your team?

19 A I'm not in constant, no, I wasn't, at that time.

20 Q Fair.

21 A At that time, not until I was involved.

22 Q You're supposed to be part of the takedown team, correct?

23 A That's correct.

24 Q So, you have to be in radio contact with them in order  
25 to figure out when you're going to come and take them

1 down, right?

2 A At that point I was.

3 Q Okay. And they're in, I take it, various locations  
4 around Grant Street?

5 A Correct.

6 Q When the first vehicle arrives, the Chevy Traverse, that  
7 gentleman never gets out of the car, correct?

8 A As far as I know, correct.

9 Q The other gentleman you testified got out of the Subaru  
10 and gets into the front passenger seat of the Traverse,  
11 correct?

12 A Correct.

13 Q At that point in time based on the information you're  
14 receiving from your other law enforcement, there is  
15 nothing in that individual's hand, correct?

16 A Correct.

17 Q No bag, no backpack?

18 A There was no indication to me that he was carrying  
19 anything.

20 Q And that would be significant during your investigation,  
21 correct?

22 A No, I don't think so.

23 Q So, you plan to meet based on the CI's conversation with  
24 one individual that is not Mr. Suggs, right?

25 A That's correct, yes.

1 Q And you say it wouldn't be important whether or not this  
2 other individual who you identified as Mr. Suggs had  
3 anything in his hand when he got into the Traverse?

4 A That wouldn't have been important to me. I mean it  
5 would have been nice to know, but it wasn't that  
6 important.

7 Q At this point in time during the course of however long  
8 this investigation has been going on, you had information  
9 about another individual being a participant, correct?

10 A As far as I know, Mr. Clark was supposed to be alone.

11 Q You would agree with me that no one tells you when the  
12 Subaru arrives at this location?

13 A Correct.

14 Q You would also agree that no one exits the Traverse in  
15 an attempt to go meet with the confidential informant?

16 A Correct.

17 Q When the two individuals, one of them you've identified  
18 as Mr. Suggs is taken out of the Traverse, he's secured,  
19 correct?

20 A Correct.

21 Q At that point in time there is still nothing on him in  
22 the way of any money or drugs, correct?

23 A Correct.

24 Q Mr. Clark is also secured, correct?

25 A Correct.

- 1 Q There is nothing observed, and I know that it was  
2 covered by Counsel, Judge, I won't belabor the issue,  
3 there was nothing observed inside of the Traverse,  
4 correct?
- 5 A Inside of the Traverse, correct.
- 6 Q There was nothing observed inside of the Subaru, correct?
- 7 A There was a large amount of money that was seized from  
8 there at some point. I don't know when it was observed.
- 9 Q That's not my question.  
10 You were there, right?
- 11 A Oh, yes, I was there.
- 12 Q You didn't observe anything in the Subaru?
- 13 A I did not.
- 14 Q Did any of your fellow detectives or other law  
15 enforcement indicate to you at the scene that there was  
16 something located inside of the Subaru?
- 17 A I don't think that it was at the scene. I don't know.
- 18 Q Again, do you recall if anything was said at the scene?
- 19 A No, I don't recall.
- 20 Q Nevertheless, despite Mr. Suggs not having any involvement  
21 in any of these conversations with the confidential  
22 informant, a decision was made to take him into custody?
- 23 A There was.
- 24 Q After he is taken into custody, a decision was then made  
25 to take the Subaru also, correct?

1 A Correct.

2 Q And, again, just so we're clear, you didn't receive any  
3 information from anyone else on surveillance when that  
4 Subaru arrived on the scene, is that fair?

5 A That's fair.

6 Q Mr. Suggs didn't make any statements to you while in  
7 custody, did he?

8 A He said that the Subaru was not his.

9 Q And that was the only statement that he had made?

10 A Yes, he didn't know whose it was.

11 Q And, again, whatever was found in this hydraulic lift in  
12 the Subaru was not visible to the naked eye, correct?

13 A Right.

14 MR. GAMBURG: That's all that I have, Judge.

15 THE COURT: Redirect?

16 MR. ZUR: Nothing, Your Honor.

17 No more witnesses.

18 THE COURT: The Commonwealth rests?

19 MR. ZUR: Yes, Your Honor.

20 THE COURT: Argument?

21 MR. HABER: Your Honor, my argument relates to  
22 the 903, criminal conspiracy. Mr. Clark is charged  
23 with conspiracy with Mr. Suggs, I submit there is  
24 no evidence, particularly in light of what we just  
25 heard a few moments ago from the detective, that

1           there is no evidence of a conspiracy.

2           A conspiracy is a crime that there has to be  
3           proof not only of an agreement but then some overt  
4           act in furtherance thereof. I submit that there's  
5           no evidence of a conspiracy here.

6           Their theory seems to be, and I think that  
7           there will be arguments that I can and will make  
8           after today relative to Mr. Clark and the fact that  
9           he was not involved in the A16 or A30 counts as  
10          well, but I'll reserve argument on that for today,  
11          but on the conspiracy, I would move to dismiss,  
12          there's no evidence.

13          THE COURT: Thank you.

14          MR. GAMBURG: Your Honor, I'm going to move  
15          for a discharge. There's absolutely no evidence  
16          whatsoever that Mr. Suggs was involved in any  
17          conspiracy. There's absolutely no evidence that  
18          he had dominion and control over what was found in  
19          that Subaru.

20          I, respectfully, Your Honor, I know that all  
21          inferences are in favor of the Commonwealth at a  
22          preliminary hearing, and I understand that we're  
23          only at a prima facie case, but there is absolutely  
24          no evidence on this record that the defendant knew  
25          or should have known what was secured or secreted

1 in the tract of the car where the only statement  
2 given at the scene was that, it is not my car.

3 Furthermore, Your Honor, the entire  
4 investigation, however long it lasted including  
5 the GPS, including the cell phone, including the  
6 CI, including the detective at what he testified  
7 to, everything indicated that this was a transaction  
8 involving only one individual.

9 For whatever reason Mr. Suggs arrived up on  
10 that scene, for whatever reason he got in the car,  
11 that's the only inferences that we have favorable  
12 for the Commonwealth at this level.

13 There are as many innocent explanations for  
14 that as there are some nebulous conspiracy involving  
15 Mr. Clark and Mr. Suggs.

16 So, based on the record that you have before  
17 you, Your Honor, understanding that it's a very low  
18 threshold, I would move for a discharge.

19 THE COURT: Commonwealth.

20 MR. ZUR: Yes, Your Honor.

21 My argument is only going to relate to the  
22 threshold of a prima facie case, and what we have  
23 here is evidence that Mr. Suggs and Mr. Clark are  
24 both from Philadelphia, they're both in vehicles  
25 with Philadelphia registration.



1                   We know that Mr. Clark has a meeting set up  
2                   with the CI to meet on a particular day at a  
3                   particular location at a particular time. We know  
4                   that Mr. Clark has 5 kilos of cocaine, which was  
5                   the agreed upon amount for the transaction in his  
6                   vehicle that he's driving. We know that Mr. Suggs  
7                   exits a vehicle, the Subaru, which has 23 kilos of  
8                   cocaine in a similar tract in the car. They're  
9                   both at the scene at the same time for the meet  
10                  with the CI, and based on the circumstantial  
11                  evidence we have here that they're together both  
12                  from outside of Pittsburgh, both in cars that both  
13                  have large amounts of cocaine hidden in the car, I  
14                  submit that for today's purposes, there certainly  
15                  is a prima facie case and they're both in a  
16                  conspiracy to deliver cocaine.

17                 THE COURT: Looking at the light most  
18                 favorable to the Commonwealth, we find that the  
19                 Commonwealth has established a prima facie case on  
20                 both defendants.

21         (Whereupon, the hearing concluded and the charges were held  
22         for court.)

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C E R T I F I C A T E

I, Phyllis M. Machel, a Notary Public - Court  
Reporter for the Commonwealth of Pennsylvania, do  
hereby certify that the said hearing was taken at the  
time and place stated herein; and that the said  
hearing was recorded stenographically by me and then  
reduced to transcript form under my direction, and  
constitutes a true record to the best of my ability  
and belief of the testimony given at the time of the  
hearing.

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Phyllis M. Machel